IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1275/06

Shri. Prakash @ Balya Bhagwat Bansode & Anr. .....Applicants

V/s.

The state of Maharashtra .... Respondent

Shri. S.S. Deshmukh Adv. for the applicants.
Miss.S.V. Gajre APP for the State.

CORAM : V.M. KANADE, J.

DATE : 21/04/06

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicants were arrested in connection with C.R.No.986/2005 registered with Swargate Police Station, Pune, for the offences punishable U/s.302, 120(B) r/w 34 of IPC and U/s.3, 25 of Indian Arms Act.

3. It is the case of the prosecution that the present applicants alongwith original accused and one other person were sitting in the hotel when accused No.1 stood

up and fired a shot at him from his revolver. Deceased was grievously injured and fell down on the ground. It is alleged that accused No.1 assaulted him with the butt of the revolver and thereafter he fled away alongwith the present two applicants on the motor-cycle and absconded and thereafter they were arrested.

4. Learned Counsel for the applicants submitted that the chargesheet has been filed. Alleged role which is attributed by the prosecution to the present applicants is that they had accompanied the person who had killed the deceased and thereafter, had helped him in escaping from scene of offence.

5. Learned APP for the State submitted that apart from gun shot, there were injuries on the person of the deceased. She submitted that the present applicants shared common intention with main accused in eliminating the deceased. She submitted that they were identified in IDP after they were arrested. She submitted that the offence which is committed is a cold-blooded murder and therefore, this is not a fit case for grant of bail.

6. I have perused the statement of witnesses and other documents attached to the chargesheet. It is

evident that only role which is attributed to the present applicants was that they had accompanied the main assailant. The deceased was to give party to the assailant since his marriage was fixed. After going through statement of witnesses, it appears that the applicants had no knowledge that accd.No.1 was to commit said offence. The applicants are 19 years old and they do not have prior antecedents. Considering the age and considering the fact that no role is attributed to them by any of the witnesses in commission of said offence of murder, in my view, the applicants are entitled to be released on bail.

7. The applicants be released on bail in the sum of Rs.5,000/- each with one or two sureties in the like amount. The applicants shall not enter the jurisdiction of Swarget Police Station during the pendency of trial. The applicants shall give new addresse to the Jail Superintendent before their release. They shall report to the nearest police station from the new address twice in a month till disposal of the trial. The applicants shall not tamper with the evidence or threaten the witnesses.

8. If any complaint is received by I.O. against the present applicant, liberty is given to the Public Prosecutor to apply for cancellation of bail.

9. Trial court shall not be influenced by any observations made by this court while passing this order and the same may not be construed as an expression of opinion of the case and decide the case on its own merit and in accordance with law.

10. Application is accordingly disposed of.

V.M. KANADE, J.